



Centers for the access to justice in Argentina

IMPACTS AND OPPORTUNITIES
TO BRIDGE THE GAP IN
THE ACCESS TO JUSTICE



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EXECUTIVE SUMMARY



01. Introduction

Argentina is still affected by important challenges in the access to justice and the effective enjoyment of rights. Different situations of differentiation and segregation impose limits and obstacles for the exercise of social, political, cultural, and civil rights. Thus, inequality remains at the core of structural problems in our country and negatively impacts the quality of our democracy.

To ensure that access to justice is developed by promoting conditions of equality, it is necessary to have institutions and mechanisms that contemplate those structural aspects which create unequal living conditions in our society. Acknowledging the specific forms of vulnerability, and the way in which differential effects intersect with one another, is the starting point to instrumentalize effective mechanisms for the access to rights, in general, and to justice, in particular.

In Argentina, one of the public policies that has been implemented with the aim of facilitating access to justice for the population through territorial and administrative devices as well as devices to access information on rights and public resources is the Access to Justice Centers (CAJ) of the Ministry of Justice and Human Rights of the Nation.

Despite the fact that CAJs are one of the central policies in terms of decentralization and federalization of access to justice, no external studies have been carried out to date in order to evaluate their scope and impact at a national level or to analyze their strengths and main challenges. Hence the interest of the organizations INECIP, ACIJ and CELS to conduct a study to describe and evaluate the functioning, achievements and pending agendas of the CAJ policy.

To achieve the proposed objective, during 2020 and the first months of 2021, we carried out a quali-quantitative, cross-study and descriptive study, based on primary and secondary sources, with triangulation of methods. The report characterizes and describes CAJ policy over time, through December 2019. During March 2021 we conducted a validation process with a range of local stakeholders so that they could provide their perspective on a first report of the research. In June, a round of consultations was held with international experts to get their perspective on the report.

The following are the main findings and recommendations of the study for the implementation and improvement of the CAJ policy, and its eventual articulation within the framework of a "national system of access to justice" in Argentina. As this is a developing policy, the recommendations seek to contribute to its strengthening.



02. CAJ Policy Description

Since 1990, successive Federal governments have sustained legal aid policies with different characteristics in each Administration until the adoption of the current "Center for the Access to Justice" (CAJ) policy. Among the first antecedents was the "Social Program for Legal Services and Community Legal Training," ("Programa Social de Servicio Jurídico y Formación Jurídica Comunitaria"), under which the first "Legal Assistance Centers" ("Centros de Atención Jurídica") were created between 1990 and 1996 in different neighborhoods of the City of Buenos Aires. In 2006, the Center for Assistance and Derivation (Centro de Orientación y Derivación) was created, popularly known as the "Multi-entrance Lavalle Office" ("Oficina Multipuertas Lavalle"), was created and put into operation as a joint initiative of the Ministry of Justice and Human Rights and the Federal Appeal Court in Civil Matters.

The National Direction for the Promotion and Strengthening of Access to Justice (NDP-SAJ/DNPF AJ) was created in 2008. Its main objectives are to promote, facilitate and strengthen access to justice in response to the demands of the population and to carry out activities related to legal and social community service programs. During this period, several CAJs were created in poor neighborhoods, providing legal advice as a public service on various issues and conducting community mediations.

As of 2010, the CAJs increased their interdisciplinary profile. Within the NDPSAJ, a psychosocial area was created, made up of psychology and social work professionals. In 2011, a "multi-agency approach" was sought in the intervention of the centers, for which agreements and articulations were established with various public institutions, such as ministries, universities, ombudsmen, etc. The CAJs intensified their profile as assistance centres to respond to problems related to family relationships, conflicts with the criminal law, violence, health problems, housing, work and education, among others. In order to bring the bureaucratic mechanisms of the Judicial Branch and the State in general closer to citizens, specific objectives were established for the location of the CAJs. First, the policy sought to have a federal scope. On the other hand, offices were also set up to offer assistance in slums and settlements.

In 2016, a new stage of the policy began, during which several CAJs were redistributed from some areas of the province of Buenos Aires to those provinces that did not have this service. A computer system for case-management and registration of CAJ activity was also implemented, the Computer System of the Centers for Access to Justice

(SICAJ). Although there is still room for improvement, the introduction of a management tool such as SICAJ has improved the institutional management model and has led to progress in the production and collection of information. This system provides valuable information to citizens and public policy decision-makers regarding the services and demands they receive.

In order to have information that would make it possible to diagnose the problems of access to justice, two Unmet Legal Needs Surveys were conducted at the national level jointly by the Ministry of Justice and the University of Buenos Aires Law School. The first one was published in 2017 and the second one in 2019.

On the other hand, the demand for free legal representation to resolve legal conflicts in judicial instances led to the creation of the Federal Network of Lawyers for Legal Aid, which has been operating since 2017 based on the referral by the CAJs of cases that require the intervention of the Judiciary. Finally, the "Corredor Norte Legal y Sanitario" or "Corredor Norte Norandino" programme - located along National Route 40 in the provinces of Jujuy, Salta, Tucumán, Catamarca, La Rioja and Santiago del Estero - was also launched, providing a travelling rural service in small towns in six provinces of northern Argentina, coordinated with national and the health ministries of each Province.

The CAJs currently constitute a federal network of public legal services that provide free primary legal assistance and seek to improve access to justice for the most disadvantaged population groups. They are coordinated by the National Direction for the Promotion and Strengthening of Access to Justice (NDPSAJ/DNPFAJ), which is part of the Undersecretariat for Access to Justice of the Ministry of Justice and Human Rights. Up to the date of the research, 92 centers were open, with at least one CAJ in each province and in the Autonomous City of Buenos Aires. Each CAJ has an interdisciplinary team of lawyers, psychologists, community mediators, social workers and administrative staff ranging from two to eight people, depending on the province.

The NDPSAJ/DNPFAJ, like a large part of the Ministry of Justice and Human Rights, has a series of budget funds (allocated by law of the Federal Congress), as well as out-of-budget funds. The latter come from agreements signed between the Ministry of Justice and cooperation agencies with social objectives that are not related to these issues¹. Although the use of out-of-budget funds may facilitate financial management for the authorities in charge of the policy, this way of managing funds by public agencies

¹ These are the Automotive Chamber of Commerce (CCA) and the Association of Automotive Dealers of Argentina (ACARA).



does not generate adequate conditions in terms of transparency and budgetary unity. For this reason, the report suggests revising the way in which the policy is sustained so that it can be carried out solely with budgetary funds, as well as a proactive publication of resource management.

03. Main research findings

Based on quantitative empirical data, we analyzed the characteristics and extension of the services provided by the CAJs and their level of use of these services by the population. This information has been analyzed since 2016, when the SICAJ was implemented.

Between the second half of 2016 and November 2019, units² across the country handled a total of 987,240 consultations. This represents an average of approximately 24,079 per month and 791 per day. According to the figures, during 2018, the number of consultations grew by 30% compared to the previous year (eight new CAJs started operating in 2018 and consultations received by 5 telephone lines and subsidiary programs were registered). On the contrary, in 2019 there is a decrease: its monthly average drops by 17.2% compared to the previous year.

The data obtained in the SICAJ allow to know profiles of consultants³. In this regard, it is relevant to note that the consultations they receive are predominantly submitted by women, who represent 66% of the users in 2019. With regard to nationality, between 2017 and 2019, almost 6 out of 10 individuals who approached the CAJ for a consultation

2 The system registered consultations for the following programs and hotlines: Citizen Assistance Area, House of Peace and Justice, Quilmes (Área de Atención al Ciudadano, Casa de Paz y Justicia QUILMES), National Center for the Assistance to Victims of Crime (Centro Nacional de Asistencia a las Víctimas de Delitos, CENAVID), Migrant Orientation Center (Centro de Orientación a Migrantes), Interdisciplinary Body, The Government in your Neighborhood, CAJ hotline (0800-222-3425), National Program to Rescue and Support Victims of Trafficking (Programa Nacional de Rescate y Acompañamiento a las personas Damnificadas por el Delito de Trata, PNR), PNR 145 hotline, Program for the Fight Against Impunity (PRONALCI), and the Program Victims Against Violence (PVCV). The consultations received by these programs and hotlines was 7.9% of the total amount registered by the SICAJ in 2019.

3 The profiles of the CAJs users registered in the SICAJ show a high volume of lost data. In some cases, they represent almost half of the cases. We do not have a unique or explicit guideline to control these data systematically. This, in turn, prevents us from having a single measure for deeming them as valid. The heterogeneous classification of these values in each semester adds to the difficulties. With a few exceptions, we adopted some strategies to reduce the impact of these limitations.

were nationals of Argentina. On the other hand, 0.7% of the individuals who approached the CAJ for a consultation had not accessed formal education, 4.4% did not complete primary school and 13.1% only completed primary education. Regarding secondary education, 13.5% did not complete it, while 10.8% did. Finally, only 3.8% went on to tertiary or university education.

In relation to its territorial coverage, from the opening of the first CAJs to the present day, the policy has significantly expanded nationally, quadrupling its scope in seven years. However, despite the fact that since 2017 all provinces had at least one CAJ, their location implies territorial imbalances. When evaluating the territorial coverage in terms of the volume of conflict registered in each jurisdiction, between 2017 and 2019, the City of Buenos Aires and the Province of Buenos Aires concentrated more than 73% of the consultations registered by the CAJs and disposed of 55% of the centers of the whole country. Three other provinces accumulated between 2 and 5% of the consultations (Córdoba, Santa Fe and Formosa), while the remaining 19 did not reach 2% of the total. Given that the strategy of federalization of the policy has combined different rationales in recent years, it would be beneficial if the criteria for the location of CAJs were clarified and submitted to the consideration of their potential users, and articulated with the rest of the actors in the system.

With regard to the type of consultation, between 2017 and 2019, more than 60% of consultations were administrative, defined as those generated by the difficulties in accessing social benefits and to understand the steps and documentation required to carry out procedures. Most of them are concentrated on four topics: access to documentation, consultations for agencies located in the CAJ, social security and family relations. On the other hand, during the period analyzed, only a quarter of the consultations handled by the CAJs were "legal" (those that arise from more complex situations and include legal support, in some cases involving the processing of cases before the judiciary).

The figures obtained show that most of the institutional effort is directed towards intrastate proceedings to solve urgent problems, linked to very specific needs, usually of an administrative nature (documentation, welfare procedures, subsidy requirements, food obligations, etc.), which respond to the demand of the population (which assumes their ability to identify a problem, know the service provided by the CAJ and approach the center to request support in its resolution). This data shows the existence of barriers established around the recognition of rights, the identification of needs and knowledge of the places to turn to for a solution or support. Accordingly, it is important to combine this modality of attention with more proactive strategies that qualify the dependence on the citizen initiative, especially considering that according to the Unmet Legal Needs Surveys conducted in the country, about 65% of the population said they did not know



an office where they could seek legal aid, a number that is even higher among people from vulnerable groups.

In order to deepen and strengthen the proximity link with the communities, the CAJs developed two central strategies. The first one is the itinerant center policy, which allows them to provide their services in locations other than the fixed office and within their territory of influence, with the aim of expanding their geographic radius of attention and "going to look for" consultations where there is a population that does not attend the CAJ for different reasons. Almost all of the centres regularly carried out itinerant visits in areas close to the fixed office, which shows a fairly even adoption of the guidelines. However, there is a need to specify the criteria for initiating or discontinuing them, for choosing locations, and for establishing regularity and permanence, among others.

Secondly, the CAJs develop citizen education activities that usually take the form of workshops, training and informative talks, to strengthen the population's knowledge of their rights and the mechanisms available for their effective access. Most of the CAJs carried out this type of activity. However, there are still some challenges regarding the need to systematize formats, establish mechanisms for the selection of topics, their sustainability over time, and the specific audiences to which they are oriented, among other issues.

In terms of the actions that CAJs carry out to address and collaborate in the resolution of the legal needs that the population presents to them, we can differentiate between three different, although not exclusive, responses or interventions. Any CAJ policy design should take into account these three levels, although depending on their profile - and also on local adaptations - some may have more specific weight than others:

- » **Basic assistance.** This refers to assistance for individual claims, related to pressing issues. This category usually encompasses a myriad of diverse problems and should not be underestimated. First of all, because they relate to every-day problems, sometimes linked to basic survival. Even though they are low-complex issues, their resolution is important because they have direct impact on the life-quality of large sectors of the populations which are usually affected in their access to basic rights, as well as because they contribute to reduce the possibilities of generating new and more complex problems. Second, the accumulation of similar claims could lead the CAJs and other agencies to develop collective answers or to transform existing public policies.
- » **Systemic.** According to the data reviewed in this research, more than half of the CAJs responses are aimed at obtaining an answer or response from other government agencies. This makes the CAJ policy an anti-barrier for the access to justice and other rights. This type of response partially overlaps with basic assistance and with what appeared in the interviews as "short derivation". Similar to the case of basic assistance, it would

be desirable for the CAJs to unify these efforts toward modifying the barriers for the access to justice on a systemic level, in order to overcome their role in individualized administrative litigation.

- » **Collective approach.** This is possibly the most challenging aspect, given that it demands building more complex cases and inter-agency articulation. From a political point of view, this may lead to more intra-agency confrontations, even within the Executive branch. It also requires a more proactive type of intervention which would not be based on demand. In this sense, both the ULNS and the SICAJ provide valuable information to identify collective patterns of economic, social, cultural, and environmental rights violations, and to contribute to design a preventive policy which could anticipate an increase in conflicts and judicialization

It is essential that the interventions of the CAJs take place in a localized manner, taking into account territorial differences. However, there is an interesting margin to advance in the systematization of the interventions and their protocolization, as it has been attempted with the manuals, which have implied an advance to share the different interventions.

The coordination of CAJs with other agencies and dependencies is crucial to respond to the needs of the population. A high proportion of CAJs maintain cooperative links (of different types and degrees of formality) with entities related to the administration of justice (including public defenders' offices, prosecutors' offices, bar associations, peace courts, among others), while a high percentage do not report links with health agencies (whether national, provincial or municipal). The national agencies that maintain a more sustained articulation with the CAJs are ANSES (Federal Administration for the Social Security), different areas of the Ministry of Social Development, the National Office of Migration and RENAPER (National Registry of Persons).

CAJs refer consultations when they do not have the necessary tools to resolve the problem or when the individual requires access to a new resource or benefit which is not under the specific functions of the CAJ: between 2017 and 2019, according to SICAJ, assisted derivation was mostly used in the case of access to documents and certificates (more than half of derivations), social security (more than a quarter), and family relations.

The derivations of consultations to ensure legal representation was quantitatively marginal. Between 2017 and 2019 only 0.6% of consultations obtained legal representation: 5431 cases, where less than half were referred to the Federal Network of Lawyers for Legal Representation (2233).

Given that the CAJs aim to guarantee the right of access to justice for the most vulnerable groups, we analyzed the responses provided to the consultations of indigenous people and people with disabilities.



Firstly, the "Sanitary and Legal Northern Corridor" (or "North Andean Corridor") is the only program within the CAJ policy designed specifically for indigenous and rural communities. While the rest of the CAJs are located in urban or peri-urban areas with a high level of circulation of individuals, this program foresees the articulation of a fixed CAJ located in a local hospital and a mobile CAJ mounted in a van. It combines primary legal support with health services. Despite having identified areas for improvement, the North Andean Corridor has been a valuable innovation to reduce barriers by targeting historically vulnerable population groups.

It can be seen that the cases brought to the CAJs in the Corridor are not related to specific problems of the indigenous communities nor are they related to complex issues, but social security (45.5%), family relations (20.2%); and, to a lesser extent, healthcare (9%), and personal documents (8.4%). These demands, mostly linked to simple procedures or formalities, are difficult to access due to the difficulty of travelling, mainly for economic reasons.

The North Andean Corridor presents structural restrictions and challenges associated with its limited geographical coverage, the topics addressed, its limited inter-institutional coordination, and the conjugation of intra- and extra-state administrative circuits. Its design presents logistical and operational difficulties, as well as institutional design and operation, in relation to supervision systems and staff recruitment.

Regarding the persons with disabilities, according to SICAJ between 2017 and 2019, 32,892 consultations were recorded related to health issues, including access to medicines, orthopedic elements, medical supplies, and mental health services. There were 3716 consultations classified under the subtopic "certificate of disability(CUD)", and 24,913 to obtain contributory and non-contributory pensions. There is still the possibility of expanding the articulated work between the CAJs and various civil society organizations that work in defense of this group.

In order to articulate the capacities of different state areas, dialogue with other official information systems and move towards more consolidated formats for diagnosing, monitoring and evaluating problems and policies, it is necessary to increase and improve the ways in which information on access to justice and the legal needs of the population is produced and publicized.

The precedent in Argentina in terms of statistical production of data is the National Direction of Criminal Policy of the Ministry of Justice (Dirección Nacional de Política Criminal), created in 1991, which went from developing empirical studies of criminality based almost exclusively on court files and sentences to implementing victimization surveys on the population. This is a trajectory of accumulation that allows us to situate the current tools for measuring legal needs in a longer process. The data constructed showed that a very

high percentage of crimes were not prosecuted by the justice system: it highlighted that 70% of crimes are not reported. In 2012, the Direction developed for the first time a specific survey on access to justice⁴, developed by the same technical teams that had implemented the victimization surveys. There, for the first time, they asked about the population's knowledge on the existence of the CAJs.

With a change in the methodologies and an expansion of the scope, in 2017 the "Diagnosis on Unmet Legal Needs and Access to Justice Level" was published. The report synthesized the main results of the Legal Needs Survey conducted by the Undersecretariat of Access to Justice, Secretariat of Justice, of the Ministry of Justice and Human Rights together with the University of Buenos Aires Law School. This measurement is an approach to the general problems faced by population and not of the performance of CAJs in particular. Its main objective was "to produce an objective diagnosis of the state of the social protection of rights, the level of unmet basic legal needs and the possibilities of timely access to formal and informal instances of effective enforcement of rights". In 2019, a second publication sought to update the data obtained in the first report and "provide information for the design of policies and programs that would contribute to improve access to justice by the population in general, and by the most vulnerable groups, in particular".

This type of measurement is an approximation of the general problems with which the state mechanisms must deal. It is more helpful as a general diagnosis tool than as a tool to assess the performance of the CAJs. At the same time, they should complement, rather than supplant, the key data sources (whether administrative, judicial or statistical) of the justice system.

Notwithstanding this, there are still measurement challenges of different characteristics. One of the main aspects has to do with the use given to the data produced. It will be strategic to stabilize the frequencies and methodologies used by the state agencies responsible for the production of statistics at the national level (in particular, the INDEC), in order to consolidate longitudinal series and ensure the state memory of these processes.⁵

4 Informe Final del Estudio sobre Acceso a la Justicia y Seguimiento de Causas Judiciales, Dirección Nacional de Política Criminal en Materia de Justicia y Legislación Penal, MJyDDDDHH, June 2013.

5 Although it exceeds the temporal scope of the research, we are aware that, since 2021, the Direction in charge of the CAJs began negotiations with the Undersecretariat of Municipal Affairs of the Ministry of the Interior to consolidate an "index of state presence" to detect overlapping bodies, to specify the complementarity of the intervention of different state agencies in the territory (such as ANSES, PAMI and Migration) and, ultimately, to have better elements to prioritize the locations of the CAJs and the evaluation of the policy. The implementation of this initiative could be interesting in order to strengthen the interstate link in the provision of access to justice services and the allocation of state resources.



There is great variety and heterogeneity among the CAJs with respect to the quantity and quality of the institutional links achieved. There are still important challenges in terms of generating solid, formalized and sustained institutional articulations, both with national, provincial and municipal organizations.

Common guidelines and criteria for action are required, as well as clarification and institutionalization of coordination and articulation mechanisms that allow for the construction of a network or a federal system of legal services. The combination of different services with a multi-agency and interdisciplinary approach is essential to build an effective, comprehensive and coherent response. Thinking of access to justice as a hierarchical right on the political agenda includes the creation of a network of state and non-state providers of free legal aid. This issue fuels the debate on the need for a comprehensive plan or system that coordinates, integrates and unifies the actions, programs, and strategies of the different branches of government in relation to access to justice, which requires a strong intersectoral articulation from a conducive political will.

04. Conclusions

The research, in which the impact of the policy was evaluated in light of the criteria established in the international literature, constitutes a contribution to a general diagnosis of the implementation of a policy aimed at guaranteeing the right of access to justice and providing legal empowerment to communities, as well as to promote its expansion in our country. Below we identify some of the main conclusions with a view to strengthening the policy in the future:

A sustained policy. The CAJ policy has been maintained over the years and during the administration of different governments, with the aim of promoting and facilitating access to justice for vulnerable sectors through the creation of interdisciplinary community services with the capacity to channel the responses that the State can provide to solve the population's legal problems.

Tension between the systemic and the local. In the development of this report, we have identified three levels of intervention: a basic assistance, a systemic order and the collective approach, which involves greater challenges. Throughout the history of this public policy and with differences according to the territories, the CAJs have deepened their profile in some of these aspects. The resolution of consultations classified as administrative of low complexity -which constitute the majority of their demand- is an important step to avoid the multiplication of problems and their escalation to more complex ones, but

some elements (such as citizen empowerment activities) should be deepened in order to strengthen the preventive dimension of the policy. The interrelation between these three necessary levels of intervention defines the profile of public policy at each stage, as well as the options in which it can be modeled in the future.

Geographical dimension. The existence of offices in all provinces of the country is one of the great assets of the policy. Although most of them are located in urban centers and allow access to a larger portion of the population, the presence in rural areas is still marginal. In these areas the services are especially needed given the lower density of state agencies in general and of justice in particular, and due to the complexity of the territorially-based conflicts that have intensified in all the provinces.

Inter-agency. Coordination with other public agencies and services is still a significant challenge. The complexity that arises from the coexistence of different organizational structures, different levels of government and different social actors still requires continuing and deepening the coordination efforts made to guarantee the right of access to justice with an efficient use of resources.

Recommendations. Finally, in the Chapter 7 of the report we incorporate a series of recommendations with the aim of contributing to the strengthening of the policy. The proposals are linked to the case selection policy, the internal organization, the direction and supervision system, the relationship with Government and Social Networks and other Agencies, the type of responses provided to the population, the case monitoring, the consultation timing, the technological support, the recruitment, training and working conditions of CAJ staff, the knowledge about the service, the policy funding and the user assessment.

The organizations in charge of the research hope that the contents of the report may be useful to identify aspects that could enhance the scope and impact of this important policy implemented in Argentina, as well as serve as a reference for the development of possible strategies of this type in other territories.

